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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,685	09/30/2003	Eli Avihod	MEDIS-65233	8204
24201	7590	12/22/2005	EXAMINER	
FULWIDER PATTON 6060 CENTER DRIVE 10TH FLOOR LOS ANGELES, CA 90045			EDEL, JOSEPH F	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 12/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/676,685	Applicant(s) AVIHOD, ELI	
	Examiner Joseph F. Edell	Art Unit 3636	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 12, 13 and 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01/13/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Species I, Figures 2-5, in the reply filed on 30 November 2005 is acknowledged. Claims 12, 13, and 15-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the at least one fastener bolted to two side frames must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate

changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,856,349 to Light.

Light discloses a seat back that includes all the limitations recited in claims 1-5 and 8. Light shows a seat back having a central longitudinally extending layer of flexible material 1 (see Fig. 2) being foam padding, a first relatively inflexible panel 15 attached to the right side of the layer of flexible material, a second relatively inflexible panel 12 attached to the left side of the layer of flexible material, whereby the seat back may be folded about the layer of flexible material, a covering (see column 5, lines 46-51) encompassing the layer of flexible material wherein the first and second inflexible

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panels are enclosed within the foam padding, the foam padding and the first and second inflexible panels are attached by glue (see claim 9), and the first and second inflexible panels are sculpted to form a flexible cut out in the flexible panel.

5. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,824,171 to Hollingsworth.

Hollingsworth discloses a seat back that includes all the limitations recited in claims 1, 6, and 7. Hollingsworth shows a seat back having a central longitudinally extending layer of flexible material 32 (Fig. 2), a first relatively inflexible panel 62 (see Fig. 3) attached to the right side of the layer of flexible material, a second relatively inflexible panel 62 attached to the left side of the layer of flexible material, and at least one fastener 80 (Fig. 3) attached to each of the right and left sides of the seat back whereby the seat back may be folded about the layer of flexible material, and the at least one fastener is a panel of fabric.

6. Claims 9, 10, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,142,351 to Green.

Green discloses a wheelchair that includes all the limitations recited in claims 9, 10, and 14. Green shows a wheelchair having a right side frame 43 (see Fig. 1), a left side frame 52, a flexible seat back 34 connected between the side frames with right and left sides and a central portion, a relatively inflexible right panel 67 within the right side of the seat back, a relatively inflexible left panel 68 within the left side of the seat back, and at least one fastener 69 connecting the seat back to the two side frames that permit angular movement of the seat back whereby a foldable seam (Fig. 5) is formed in the

central portion of the flexible seat back between the left and right inflexible panels allowing the wheelchair to be folded and corresponding to an area of spinal deformity.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Green in view of U.S. Patent No. 6,533,358 to Avihod.

Green discloses a wheelchair that is basically the same as that recited in claim 11 except that the at least one fastener lacks a panel of fabric attached to the seat back, as recited in the claim. Avihod shows a wheelchair similar to that of Green wherein the wheelchair has a seat back 10 (see Fig. 2) with right and left sides, two side frames 80, and fabric panels attached to the seat back and bolted to the two side frames. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the wheelchair of Green such that the at least one fastener includes a panel of fabric attached to the seat back and bolted to the two side frames, such as the wheelchair disclosed in Avihod. One would have been motivated to make such a modification in view of the suggestion in Avihod that the fabric panels bolted to the side frames allows for angular movement of the seat back relative to the two frames.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to seat backs:

U.S. Pat. No. 335,037 to Noel                      U.S. Pat. No. 1,673,433 to Wheeler et al.  
U.S. Pat. No. 2,292,586 to Thompson      U.S. Pat. No. 5,676,419 to Kassai

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell  
December 10, 2005